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Via ECF

November 10, 2021

The Honorable Wilhelmina Wright
United States District Judge
316 N. Robert Street
St. Paul, MN 55101

Re: United States v. Brett Palkowitsch
Cr. No. 19-013 WMW

Judge Wright:

I am writing to provide an update to the Court regarding the restitution portion of Defendant Brett Palkowitsch's sentence. The Government respectfully requests that the Court issue an amended judgment providing for no restitution for the reasons outlined below.

On November 26, 2019, after a jury trial, Defendant was convicted of one count of deprivation of rights under color of law, in violation of Title 18, United States Code, Section 242, for using excessive force against F.B. (ECF No. 107.) On May 21, 2021, the Court held a sentencing hearing and sentenced Defendant to 72 months' imprisonment. (ECF Nos. 167-68.) At the sentencing hearing, government counsel apprised the Court (1) that counsel and a victim-witness specialist had encountered difficulty getting in touch with F.B. regarding restitution, prior to the sentencing hearing, because of F.B.'s lengthy hospital stay, (2) that F.B. had not submitted to the government any documentation of reimbursable medical expenses that were not covered by F.B.'s \$2 million civil settlement, and (3) that the government's victim-witness specialist would work with F.B. to determine whether restitution was warranted, and if so, to obtain and submit appropriate documentation. The Court ordered the government to follow up with F.B. and file a motion for restitution, if warranted. (ECF Nos. 167-68.)

After sentencing, the government's victim-witness specialist attempted without success to contact F.B. regarding restitution. Over the next several months, she regularly called F.B.'s cell phone, but he never answered and his voicemail was always full. She called other phone numbers linked to F.B., but did not get a response. She called the hospital where she had reached F.B. the month before the sentencing hearing, but she was told that he was no longer there. In short, despite reasonable diligence to follow up

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with F.B. regarding restitution, the government has been unsuccessful.

Accordingly, the government respectfully asks that the Court to issue an Amended Judgment reflecting that: (1) the parties have addressed the issue of restitution fully; (2) F.B. has not presented timely claims for restitution; and (3) that the matter of restitution is closed with respect to the Defendant, and no order of restitution is required.

Sincerely,

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